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**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARIO MARIN-PALAFIX,

Defendant - Appellant.

No. 07-50053

D.C. No. CR-06-00171-DMS

MEMORANDUM^{*}

Appeal from the United States District Court
for the Southern District of California
Dana M. Sabraw, District Judge, Presiding

Submitted November 13, 2007^{**}

Before: TROTT, W. FLETCHER, and CALLAHAN, Circuit Judges.

Mario Marin-Palafox appeals from the 70-month sentence imposed following his guilty-plea conviction for being a deported alien found in the United States, in violation of 8 U.S.C. § 1326. We have jurisdiction pursuant to 28 U.S.C. § 1291. We affirm the sentence and remand to correct the judgment.

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

We reject Marin-Palafox's contention that disparity between his non-fast-track sentence and the fast-track sentences imposed on other defendants in the Southern District of California rendered his sentence unreasonable. *See United States v. Marcial-Santiago*, 447 F.3d 715, 718-19 (9th Cir. 2006) (concluding that the disparity between fast-track sentences and non-fast-track sentences is not unwarranted). We conclude that Marin-Palafox's sentence was not unreasonable. *See United States v. Plouffe*, 445 F.3d 1126, 1131-32 (9th Cir.), *cert. denied*, 126 S. Ct. 2314 (2006).

In accordance with *United States v. Rivera-Sanchez*, 222 F.3d 1057, 1062 (9th Cir. 2000), we remand the case to the district court with instructions that it delete from the judgment the incorrect reference to § 1326(b). *See United States v. Herrera-Blanco*, 232 F.3d 715, 719 (9th Cir. 2000) (remanding sua sponte to delete the reference to § 1326(b)).

AFFIRMED; REMANDED with instructions to correct the judgment.